

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**2:05 CR 13
(MAXWELL)**

JOHNNY RAY FANCHER,

Defendant.

ORDER

By Order entered April 20, 2005, the Court referred any pre-trial motions to be filed on behalf of either the United States of America or the Defendant in the above-styled criminal action to United States Magistrate Judge John S. Kaull, pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B), and authorized Magistrate Judge Kaull to conduct any necessary hearings in resolving said motions or in preparation for submission of proposed findings of fact and recommendation for disposition.

On May 31, 2005, a Motion To Suppress Evidence was filed on behalf of the Defendant. The Defendant's Motion To Suppress sought the suppression of all evidence seized from his residence during an alleged illegal, warrantless seizure, and all evidence that flows therefrom. The Government filed a response to Defendant's motion on June 6, 2005. The Docket in the above-styled criminal action reflects that a hearing on the Defendant's Motion To Suppress was conducted by United States Magistrate Judge John S. Kaull on June 7, 2005. Thereafter, on June 17, 2005, Magistrate Judge Kaull entered

his Report And Recommendation, wherein he recommends that the Court deny Defendant's Motion To Suppress Evidence.

Magistrate Kaull's Report And Recommendation advised the parties, pursuant to 28 U.S.C. § 636(b)(1), that any objections to said Report And Recommendation which were not filed, in writing, with the Clerk of Court within ten (10) days after being served with a copy of said Opinion/Report And Recommendation, were waived.

The Court has reviewed the record before it and has conducted a *de novo* review of all matters before Magistrate Judge John S. Kaull in considering the Defendant's Motion To Suppress Evidence. Based upon its review, it appears to the Court that Magistrate Judge Kaull's Report And Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in the above-styled criminal action. Accordingly, it is

ORDERED that the Report And Recommendation entered by United States Magistrate Judge Kaull in the above-styled criminal action on June 17, 2005, be, and the same hereby is, **ACCEPTED** in whole. It is further

ORDERED that the Defendant's Motion To Suppress Evidence be, and the same hereby is, **DENIED** in accordance with the recommendation of Magistrate Judge Kaull.

The Clerk of Court is directed to transmit copies of this order to counsel of record.

ENTER: July 6th, 2005


United States District Judge